



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2012-0279]

In the Matter of

**Mr. Brandon D. Neff
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]**

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IA-12-044

**ORDER PROHIBITING INVOLVEMENT IN
NRC-LICENSED ACTIVITIES**

I

Mr. Brandon D. Neff was formerly employed as a contract Condenser Replacement Project Superintendent at Energy Northwest's Columbia Generating Station (CGS or Licensee). The Licensee holds License NPF-21 issued by the U.S. Nuclear Regulatory Commission (NRC) pursuant to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), which was issued on April 13, 1984, and renewed on May 22, 2012. The license authorizes the operation of Columbia Generating Station in accordance with the conditions specified therein. The facility is located on the Licensee's site in Richland, Washington.

II

The NRC's Office of Investigations, Region IV, initiated an investigation from June 3, 2011, through May 14, 2012, at Columbia Generating Station, Richland, Washington. The purpose of the investigation was to review the circumstances surrounding a fitness-for-duty (FFD) matter that occurred at CGS on June 2, 2011. The incident involved Mr. Brandon D. Neff's willful attempt to subvert a FFD drug test. During the investigation, several individuals

including, Ms. Hansen, FFD Laboratory Technician II; Ms. Witt, FFD Leader; and Mr. Gloyn, Supervisor of Security Compliance, informed the investigator that on June 2, 2011, Mr. Neff submitted a synthetic urine sample as specimen Y22362385, and documented in writing on the Licensee's Federal Drug Testing Custody and Control Form that the specimen collected was not adulterated in any manner. Through Mr. Neff's own testimony, he admitted to taking prescription medication during the 2011 Memorial Day holiday weekend and that the medication had been prescribed to another individual.

Furthermore, Mr. Neff admitted that he knew the ramifications of taking another individual's medication because he was familiar with the regulatory requirements under 10 CFR Part 26, and the licensee's site-wide procedure SWP-FFD-01, "Fitness for Duty Program Requirements" that relate to FFD and drug use. As a result of his decision to take another individual's prescription medication, Mr. Neff took several coordinated steps in an attempt to circumvent a FFD drug test in the event he was selected.

Based on the statements of Mr. Brandon D. Neff and the results of the investigation, it was determined that Mr. Neff had deliberately submitted a synthetic urine sample as a specimen for a FFD drug test and deliberately provided false information by signing the Licensee's Federal Drug Testing Custody and Control Form attesting that the specimen collected was not adulterated in any manner.

In a letter dated September 14, 2012, the NRC provided Mr. Neff the results of the investigation, which was initiated by the NRC's Office of Investigations. The letter informed Mr. Neff that the NRC was considering escalated enforcement action against him for an apparent violation due to failure to provide complete and accurate information to CGS when attesting that the specimen collected during the FFD drug test was not adulterated in any manner. As part of the letter, the NRC offered Mr. Neff a choice to attend a Predecisional

Enforcement Conference or to request Alternative Dispute Resolution (ADR) through the use of mediation to resolve any possible disagreement over: (1) whether the violation occurred; and (2) the appropriate enforcement action. Mr. Neff initially responded that he would like ADR. Mr. Neff, however, did not respond to any NRC staff's subsequent communication attempts.

III

The NRC concluded that Mr. Neff violated 10 CFR 50.5(a)(2) by deliberately submitting to the Licensee information that he knew to be incomplete and inaccurate in some respect material to the NRC. The NRC concluded that Mr. Neff's actions were deliberate and that he took several coordinated steps to subvert a FFD test in the event that he was selected for a FFD drug test, as a result of his decision to take another individual's prescription medication.

The NRC must be able to rely upon the Licensee, its employees, and contractors to comply with the NRC requirements, including the requirement to maintain a drug-free workplace and a workplace free of the effects of such substances, and to provide information and maintain records that are complete and accurate in all material respects. Mr. Neff's actions, in violating 10 CFR 50.5 and his misrepresentations to the licensee, have raised serious doubts as to whether he can be relied upon to comply with the NRC requirements and to provide complete and accurate information to the NRC or its licensees.

Consequently, I lack the requisite reasonable assurance that Mr. Neff can conduct NRC-licensed activities in compliance with the NRC's requirements, and that the health and safety of the public will be protected if Mr. Neff were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety, and interest require that Mr. Neff be prohibited from any involvement in NRC-licensed activities for a period of 3 years from the effective date of

this Order. Additionally, Mr. Neff is required to notify the NRC of his employment in NRC-licensed activities for a period of 1 year following the prohibition period.

IV

Accordingly, pursuant to Sections 103, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 50.5, and 10 CFR 150.20. IT IS HEREBY ORDERED THAT:

1. Mr. Brandon D. Neff is prohibited for 3 years, from the effective date of this Order, from engaging in NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.
2. This Order shall be effective 30 days following its publication in the *Federal Register* and shall remain in effect until the condition of Item 1 has been met.
3. If Mr. Neff is currently involved with an NRC licensee other than Columbia Generating Station, or engaged in any other NRC-licensed activities, he must immediately cease those activities, and inform the NRC of the name, address, and telephone number of the employer, and provide a copy of this order to the employer.
4. For a period of 1 year after the 3-year period of prohibition has expired, Mr. Neff shall, within 20 days of acceptance of his first employment offer involving NRC-licensed

activities or his becoming involved in NRC-licensed activities, as defined in paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the notification, Mr. Neff shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Brandon D. Neff of good cause.

V

In accordance with 10 CFR 2.202, Mr. Brandon D. Neff must, and any other person adversely affected by this Order may, submit an answer to this Order within 30 days of its publication in the *Federal Register*. In addition, Mr. Neff and any other person adversely affected by this Order may request a hearing on this Order within 30 days of its publication in the *Federal Register*. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

All documents filed in the NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to

the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support

unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document.

The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate

before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC's Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is available to the public at <http://ehd1.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person other than Mr. Brandon D. Neff requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

If a hearing is requested by Mr. Neff or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. In the absence of any request for hearing or ADR, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 30 days from the date this Order is published in the *Federal Register* without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a

hearing request has not been received. If a hearing or ADR is requested, the effective date of this Order shall be determined in accordance with the hearing or ADR process.

Dated at Rockville, Maryland, this 6th day of November, 2012

For the Nuclear Regulatory Commission.

/RA/

Roy P. Zimmerman, Director
Office of Enforcement

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